

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FAR EASTERN SHIPPING CO.,

Plaintiff,

- against -

PROGRESS BULK CARRIERS, LTD.,

Defendant.
-----X

ECF CASE

07 Civ. 11375 (PAC)

**AFFIRMATION OF PETER D. WOLF IN SUPPORT OF
MOTION TO VACATE ATTACHMENT**

PETER D. WOLF, affirms and states the following under the penalties of perjury under 28 USC § 1746:

1. I am President of American Corporate Technical Services, Inc. ("ACTS") and submit this Affirmation on behalf of and at the request of Progress Bulk Carriers, Ltd. ("PBC") in support of PBC's motion to vacate the attachment and in reply to Far Eastern Shipping Co.'s ("FESCO") opposition to PBC's motion.
2. I am also the sole practicing attorney with the Law Offices of Peter D. Wolf, P.C., whose offices are located at 25 Main Street in Hastings-on-Hudson, New York. This office is also the office from which ACTS is operated.
3. On February 18, 1999, I registered ACTS as a domestic business corporation with the New York State Department of State, Division of Corporations. At that time, my law office and ACTS were both located at 36 Main Street, 2nd Floor, Hastings-on-Hudson, New York.
4. However, on or about October 1, 2003, my law office and ACTS relocated to 25 Main Street - Suite B, in Hastings-on-Hudson, New York, which is the current address.

5. I have been informed by counsel for PBC that counsel for FESCO have observed that ACTS' registration is currently on "inactive" status with the New York Department of State, Division of Corporations, and have raised questions regarding the current operational status of ACTS. To resolve these questions, I hereby affirm that ACTS, despite the inactive status of its registration, is nevertheless still an active and operating business corporation, and is still acting as PBC's agent for service of process.

6. On or about April of 2006, PBC engaged ACTS to serve as PBC's agent for service of process and to perform other services to establish a presence in New York for PBC.

7. To that end, on May 4, 2006, I prepared and filed a Form U-2 (Uniform Consent to Service of Process), executed by Sevim Numanoglu, as President of PBC, designating ACTS as PBC's agent for service of process, which were filed in the Attorney General's office in both Albany and New York City.

8. In addition to filing these documents, ACTS set up a telephone line for PBC, bearing the number (914) 478-1469, which would be routed directly to ACTS' office at 25 Main Street in Hastings-on-Hudson, New York.

9. ACTS then listed this telephone number under PBC's name in commercial and business directories, such as Verizon and The Journal of Commerce's Transportation Telephone Tickler.

10. Additionally, ACTS listed the address of 25 Main Street, Hastings-on-Hudson, New York, as PBC's address in New York with the same directories and information providers.

11. The telephone line, (914) 478-1469, is only used for, and only listed in connection with, PBC.

12. Since entering into this arrangement with PBC, I estimate that ACTS has received approximately 6 to 8 telephone calls per year on PBC's line.

13. ACTS' pattern and practice of handling such calls is to answer the telephone and announce "ACTS." If the caller inquires for PBC or otherwise mentions PBC, they will be told that this office represents PBC, and upon further inquiry would be told that ACTS is an agent for PBC.

14. I myself have taken a number of such calls for PBC. On several occasions, I answered the telephone by announcing "ACTS" to which the callers asked if this is PBC. I replied to the effect of "Yes, we represent Progress Bulk Carriers. How can I help you?" only to have the callers hang up afterwards.

15. On one occasion however, I answered "ACTS" and was asked by the caller if this was PBC. I answered in the affirmative, and the caller then asked if we could accept service of process on behalf of PBC. I again answered yes, and some time later accepted service of process on behalf of PBC. (A copy of the cover letter and summons served upon PBC via ACTS is annexed hereto as Exhibit A).

16. Having accepted service on behalf of PBC, I then forwarded the papers to PBC via its managing agent Med Brokerage and Management, Corp. ("MED"). (A copy of fax dated October 29, 2007, is annexed hereto as Exhibit B; the actual papers were also sent by Federal Express to MED).

17. I understand from counsel for PBC that counsel for FESCO have represented that in investigating PBC's presence in the Southern District of New York they called PBC's listed telephone number and spoke to someone from ACTS.

18. I further understand that counsel for FESCO have represented that the call was answered with "ACTS", but that counsel for FESCO did not state what happened next. Presumably, FESCO's counsel terminated the call at this point.

19. Had counsel for FESCO simply asked for PBC, or otherwise inquired about the relationship between PBC and ACTS, they would have been informed that ACTS was PBC's agent for service of process.

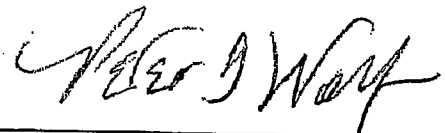
20. Likewise, counsel for FESCO could have made a written inquiry as to whether ACTS represented PBC, to the street address at 25 Main Street in Hastings-on-Hudson, New York, to say nothing of inquiring through the fax number and/or e-mail address, which were readily available in the Transportation Telephone Tickler and elsewhere, and could also have been obtained upon request by telephone.

21. Clearly, reasonable efforts on the part of FESCO's attorneys would have yielded sufficient indicia that PBC is represented by ACTS for the purpose of service of process.

22. However, it appears that FESCO failed to make such diligent inquiries, perhaps for fear that had they done so, they would have received a positive reply, and thus FESCO would have been precluded from filing a Rule B attachment.

The foregoing is true and correct to the best of my knowledge under the penalty of perjury.

Executed on: February 1, 2008



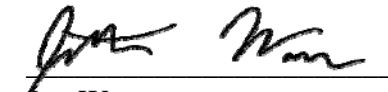
Peter D. Wolf

CERTIFICATE OF SERVICE

Jon Werner, an attorney duly admitted to practice before this Honorable Court, affirms on this 1st day of February 2008, I served true copies of the foregoing, by e-mail and ECF notice to:

LAW OFFICES OF SIMON HARTER, ESQ.
Attorneys for Plaintiff
304 Park Avenue South, 11th Floor
New York, NY 10010

Attn.: Simon Harter, Esq.
sharter@harterlaw.com


Jon Werner

U:\kmhldocs\2656001\Motions\Aff-PW-Vacate-Reply.doc

EXHIBIT A

SAO 440-134-000 Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

DICALITE ARMENIA, INC.

V.

SUMMONS IN A CIVIL ACTION

PROGRESS BULK CARRIERS, LTD.

CASE NUMBER:

07 CIV 8660

TO: (Name and address of Defendant)

PROGRESS BULK CARRIERS, LTD.
25 Main Street
Hastings On Hudson, NY 10706-1601

YOU ARE **HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Barry L. Katz, Esquire
225 City Avenue, Suite 14
Bala Cynwyd, PA 19004

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

OCT 05 2007

CLERK

DATE

BARRY L. KATZ, ESQUIRE
225 City Avenue, Suite 14
Bala Cynwyd, PA 19004

Direct Dial: (610) 660-8806
Facsimile: (610) 660-8817
BarryL.Katz@aol.com

October 24, 2007

VIA FIRST CLASS MAIL

Progress Bulk Carriers, Ltd.
c/o Med Brokerage and Management
29 Continental Place
Glen Cove, New York 11542-2935

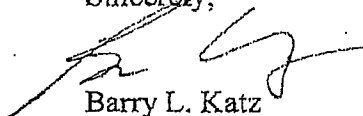
Progress Bulk Carriers, Ltd.
25 Main Street
Hastings on Hudson, New York 10706-1601

Re: Dicalite Armenia, Inc. v. Progress Bulk Carriers, Ltd.
No. 07 Civ 8660 (WHP)

Dear Sir or Madam:

Enclosed please find Judge Pauley's Order for Initial Pretrial Conference dated October 23, 2007.

Sincerely,



Barry L. Katz

BLK/ks
Encl.

cc: Jeffrey Weiss, Esquire (with enclosure) (Via First Class Mail)

EXHIBIT B

A C T S (American Corporate Technical Services, Inc.)

First Bank Building

25 Main Street - Suite B

Hastings-on-Hudson, NY 10706 U.S.A.

Tel: (914)478-4321

Fax: (914)478-0001

e-mail: seawolf@cloud9.net

V I A T E L E F A X

To: Asaf/Ibrahim

Date: Oct. 29, 2007

No. of Pages (incl. this one): 5

Please find below a copy of the Cover Letter and Court Order received earlier today on behalf of Progress Bulk Carriers, Ltd.

Please contact this office if you have any questions.

Many Thanks.

Best Regards,



Peter D. Wolf

IMPORTANT: Please note that this fax message is intended **ONLY** for the above named party and may contain information, which is **privileged, confidential, and exempt from disclosure**. Therefore if you are not the intended recipient, you are hereby advised that any **DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED**. Please immediately notify this office by telephone or fax that you have received this message in error, and return the message to this office through the U.S. mail. Thank you in advance for your cooperation.